



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/725,990	12/01/2003	Yoshio Tomoda	03727/HG	4923
1933	7590	02/03/2006	EXAMINER	
FRISHAUF, HOLTZ, GOODMAN & CHICK, PC			TRAN LIEN, THUY	
220 Fifth Avenue			ART UNIT	
16TH Floor			PAPER NUMBER	
NEW YORK, NY 10001-7708			1761	

DATE MAILED: 02/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/725,990

Applicant(s)

TOMODA ET AL.

Examiner

Lien T. Tran

Art Unit

1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

The 112 second paragraph rejection is hereby withdrawn.

Claims 1-2, 4,7, 9-10, 12-13,14, 15,17,18,19, 20-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Kuechle et al.

Kuechle et al disclose a method of preparing a dough to be cooked under heat. The dough comprises flour, protein supplements including amino acids as listed on col. 4 lines 49-58. The dough can be baked to prepare a variety of baked goods including biscuits, dumplings, flat bread, crackers, pizza, doughnut, fritters, hushpuppies, pastry etc.. (see also col. 3 lines 34-48)

Kuechle et al disclose a method of preparing food to be cooked under heat because the dough is used to prepare the food products listed and the products are cooked under heat. The recitation of " which is capable of decreasing acrylamide" in the preamble does not limit claim 1 because the body of the claim following the preamble is a self-contained description of the method and does not depend on the preamble for completeness. The amino acids disclosed in Kuechle et al are the same as the ones in claim 2. The food contains flour which meets the limitation of claim 4. With respect to claim 7, the foods include baked confectionery, snack, and dumplings are foods having sheet of dough made of cereal flour. With respect to the properties in claims 1,9, 12, 13,15, 17-19, such properties are inherent in the Kuechle et al method because the same amino acids are added and the food is subjected to heating. With respect to claims 10, Kuechle et al disclose subjecting the food to be cooked under heat.

Claims 3, 5-6,8,11,16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuechle et al.

Kuechle et al do not disclose heating that is not lower than 120 degree C, frying, stir-frying or roasting, the salt and peptide of claim 3, some of the food product of claim 8 and preparing cooked food.

The heating temperature varies with the type of food. The temperature range claimed is conventional for baked product. It would have been obvious to one to use such heating range to make the food products disclosed in Kuechle et al. While Kuechle et al disclose the dough can be baked, it would have been obvious to fry the dough depending on the type of food products prepared from the dough. For example, donut , fritters, hushpuppies are commonly fried, not baked. Kuechle et al disclose adding amino acid or protein; thus, it would have been obvious to add protein containing the amino acid or the salt of the amino acids. It would also have been obvious to select any peptide depending on the amino acid desired for the product. It would have been obvious to heat the food products to prepare cooked food products.

In the response filed 11/21/05, applicant argues Kuechle et al disclose a protein which is a polymer from a great number of amino acid and not a single molecule of an amino acid. This argument is not persuasive. Kuechle et al disclose protein supplement including proteins resulting from amino acid. Kuechle et al then disclose other suitable protein including collagen, myosin, casein etc... Thus, Kuechle et al disclose both amino acids and protein can be added. Furthermore, the claims do not exclude the other amino acids as long as the claimed amino acids are disclosed. For example, if the protein includes glycine, alanine, leucine etc.. , the claims do not exclude alanine, leucine. The new claims recite a peptide complex which is the same as

Art Unit: 1761

protein. Applicant argues that a protein does not exhibit the activity as a single molecule and submits a declaration to show that protein does not decrease the content of acrylamide in a food. The declaration is not persuasive. The showing in the declaration is limited to noodles; the claims are not limited to only noodles.

Furthermore, the showing is not against the prior art because Kuechle et al teach proteins resulting from amino acids and the amino acids are the same as claimed. The showing in the declaration is not against the teaching of Kuechle et al. The teaching of Kuechle et al encompasses proteins containing amino acids such as glycine-glycine, polylysine, lysine-glutamine etc... It is not shown how the acrylamide is measured and compared in the declaration.

Applicant's arguments filed 11/21/05 have been fully considered but they are not persuasive.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Art Unit: 1761

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lien T. Tran whose telephone number is 571-272-1408. The examiner can normally be reached on Tuesday, Thursday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cano Milton can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

February 1, 2006


LIEN TRAN
PRIMARY EXAMINER
Group 1700